IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 24340 of 2007(V)

OS.239/2005 of I ADDL.SUB COURT, KOZHIKODE

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PETITIONER:

SNEHALATHA N.V., D/O.MOOTHORAKUTTY,
AGED 39 YEARS, "SOPANAM", PALLIMALAKUNNU,
KOTTOOLI AMSOM, DESOM, KOZHIKODE TALUK.

BY ADV. SRI.P.K.RAMKUMAR
SMT.ANITHA RAMKUMAR

RESPONDENT:

GIRISH, S/O. GOPALAN,
AGED 23 YEARS, RESIDING AT PILANCHERI,
POONAMANIL, CHELAVOOR AMSOM, DESOM,KOZHIKODE TALUK

BY ADV. SRI.R.SUDHISH
SRI.P.P.BALAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 24340/07

APPENDIX

Petitioner's Exts:

Ext.P1 a true copy of the assessment deed executed by respondent and his brothers in favour of Jameela dt. 18.4.05.

Ext.P2 a true copy of the plaint in O.S. 239/05 in the 1st Addl. Sub Court, Kozhikode.

Ext.P3 true copy of the written statement file in O.S.239/05 in the 1st Addl. Sub Court, Kozhikode.

Ext.P4 true copy of the I.A.2771/07 application filed in O.S.239/05 before I.A. Sub Court, Kozhikode dt.. 27.7.07.

Ext.P5 true copy of the I.A.2772/07 application filed in O.S.239/05 before I.A. Sub Court, Kozhikode dt. 27.7.07.

Ext.P6 true copy of the i.A.2773/07 application filed in O.S.239/05 before I.A. Sub Court, Kozhikode dt. 27.7.07.

Ext.P7 true copy of the i.A.2774/07 application filed in O.S.239/05 before I.A. Sub Court, Kozhikode dt. 27.7.07.

Ext.P8 true copy of the I.A. 2775/07 application filed in O.S.239/05 before I.A. Sub Court, Kozhikode dt. 27.7.07.

Ext.P9 true copy of the order passed in I.A.2771/07 application filed in O.S.239/05 before I.A. Sub Court, Kozhikode dt. 7.8.07.

Ext.P10 true copy of the order passed in I.A.2772/07 application filed O.S. 239/05 before I.A. Sub Court, Kozhikode dt. 7.8.07.

Ext.P11 true copy of the order passed in I.A.2773/07 application filed in O.S. 239/05 before I.A. Sub Court, Kozhikode dt. 7..8.07.

Ext.P12 true copy of the order passed in I.A.2774/07 application filed in O.S. 239/05 before I.A. Sub Court, Kozhikode dt. 7.8.07.

Ext.P13 true copy of the order passed in I.A.2775/07 application filed in O.S. 239/05 before I.A. Sub Court, Kozhikode dt. 7.8.07

M.N.Krishnan, J.

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W.P(C).No.24340 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

Respondent also entered appearance. This Writ Petition is filed seeking to set aside Ext.P12 order whereby the court refused to summon the Manager, Bank of India, Kozhikode for the production of document containing the signature of the defendant for the purpose of comparison of the signature of the defendant in that document with the disputed signature of the defendant in an agreement for sale.

2. It is the case of the defendant in the suit that he had not executed any document in favour of the plaintiff and he had specifically denied the signature in the agreement for sale. It is true that summoning of the document was at a belated stage. Section 73 of the Evidence Act permits comparison of signature by the court under certain circumstances. I am not going into the details for the reason that it is for the court below to consider that matter. But it may not be correct to shut out evidence at

the stage of trial because it has got direct bearing on the subject matter to be decided by the court. So, though belated, I feel that the parties must be permitted to produce documents at the trial stage, so that unnecessary embarrassment can be avoided at a later stage.

3. Therefore, the order refusing to summon the document is set aside and it is allowed. Needless to say that regarding admissibility, reception, relevancy, etc., the defendant also has to be heard at the time of admitting the document in evidence.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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